

PART 1900 - GENERAL

Subpart C - Applicability of Federal Law and Individual Liability

§1900.101 General.

This Subpart provides Agency policy concerning:

- (a) The liability of the spouse when both parties execute a promissory note, assumption agreement, or other evidence of indebtedness.
- (b) The applicability of Federal law rather than State law in the conduct of Farmers Home Administration (FmHA) operations.
- (c) The liability of an auctioneer for conversion of personal property mortgaged to FmHA.

§1900.102 Applicable law.

Loans made by FmHA are authorized and executed pursuant to Federal programs adopted by Congress to achieve national purposes of the U.S. Government.

- (a) Instruments evidencing or securing a loan payable to or held by the FmHA, such as promissory notes, bonds, guaranty agreements, mortgages, deeds of trust, financing statements, security agreements, and other evidences of debt or security shall be construed and enforced in accordance with applicable Federal law.
- (b) Instruments evidencing a guarantee, conditional commitment to guarantee, or a grant, such as contracts of guarantee, grant agreements or other evidences of an obligation to guarantee or make a grant, executed by the FmHA, shall be construed and enforced in accordance with applicable Federal law.
- (c) In order to implement and facilitate these Federal loan programs, the application of local procedures, especially for recordation and notification purposes, may be utilized to the fullest extent feasible and practicable. However, the use of local procedures shall not be deemed or construed to be any waiver by FmHA of Federal immunity from any local control, penalty, or liability, or to subject FmHA to any State required acts or actions subsequent to the delivery by FmHA officials of the instrument to the appropriate local or State official.

---

DISTRIBUTION: W, S, D, C

General

(d) Any person, corporation, or organization that applies for and receives any benefit or assistance from FmHA that offers any assurance or security upon which FmHA relies for the granting of such benefit or assistance, shall not be entitled to claim or assert any local immunity, privilege, or exemption to defeat the obligation such party incurred in obtaining or assuring such Federal benefit or assistance.

(e) The liability of an auctioneer for conversion of personal property mortgaged to FmHA shall be determined and enforced in accordance with the applicable Federal law. "Auctioneer" for the purposes of this Subpart includes a commission merchant, market agency, factor or agent. In all cases in which there has been a disposition without authorization by FmHA of personal property mortgaged to that agency, any auctioneer involved in said disposition shall be liable to the Government for conversion--notwithstanding any State statute or decisional rule to the contrary.

§1900.103 Separate and individual liability of spouse.

In all cases in which one party to a marriage joins the other party in executing a promissory note, assumption agreement, or other evidence of indebtedness for loans made or insured by the United States of America, acting through the Farmers Home Administration, one purpose and effect of either party's signature will be to engage that party's separate and individual personal liability whether or not specifically so stated in the note or other instrument and notwithstanding any State statute or decisional rule to the contrary whether based on coverture or other grounds and irrespective of whether the loan is for the benefit of one party or for the benefit of property held or to be held by both parties as tenants in common, joint tenants, an estate by the entirety, community property, or otherwise, or is the separate property of either.

§§1900.104 - 1900.150 [Reserved]